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Summary record of the 4th meeting

Held at Headquarters, New York, on Wednesday, 8 October 2008, at 3 p.m.

Chairman: Mr. Argüello ..... (Argentina)

later: Mr. Elsherbini (Vice-Chairman) ..... (Egypt)

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08-54025 (E)

The meeting was called to order at 3.10 p.m.

Agenda item 37: Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (*Territories not covered under other agenda items*) (A/63/23 (chaps. VIII, IX, X and XII), A/63/23/Add.1 and A/63/131) (*continued*)

Hearing of petitioners (*continued*)

Question of Western Sahara (A/C.4/63/5/Add.18-22, 24, 26, 27, 29, 30, 31, 33-37, 39, 41-44, 46, 47, 49, 52, 55, 56)

1. *At the invitation of the Chairman, Mr. Aurrekoetxea (Instituciones Solidarias con el Pueblo Saharaui a nivel del Estado Español) took a place at the petitioners' table.*

2. **Mr. Aurrekoetxea** (Instituciones Solidarias con el Pueblo Saharaui a nivel del Estado Español) said that it was lamentable that the international community had not yet resolved the question of Western Sahara and that the Security Council had not yet managed to enforce the agreements signed with warring factions. The Saharawi people continued to believe in dialogue and in the international legality respected by the 83 Governments that had officially recognized the Saharawi Arab Democratic Republic. He wished to thank Algeria for its solidarity with the Saharawi people, as well as Cuba and South Africa for providing training for young people in the Tindouf refugee camps. Worst of all, however, was the silence of decent people. Those present must speak out and condemn Morocco's failure to respect international legality, as well as its serious violations of human rights in the invaded Territory. Those violations included torture, disappearances, detention and killing.

3. He was grateful to the Secretary-General for striving to achieve a new agreement between the parties to the dispute through direct negotiations between the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente POLISARIO) and Morocco. The Saharawi people were stronger and more united than ever, thanks to the huge efforts of the Frente POLISARIO and the support of friendly nations and independent humanitarian organizations. He appealed to the Government of Spain to work with the international community towards the decolonization of Western Sahara, which continued to be a colony of Spain. That country should change its ambiguous posture of recent years and express clear support for an agreement under the auspices of the United Nations that would allow for the self-determination of the Saharawi people, including the option of independence.

4. *Mr. Aurrekoetxea withdrew.*

5. *At the invitation of the Chairman, Mr. López Ortiz (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui) took a place at the petitioners' table.*

6. **Mr. López Ortiz** (Federación Estatal de Instituciones Solidarias con el Pueblo Saharaui) denounced Morocco's brutal repression of the Saharawi people and its systematic violation, with impunity, of their most basic human rights. The previous month, peaceful demonstrations in Smara had been brutally suppressed by the Moroccan secret services. Such a situation was unacceptable. The prerogatives of the United Nations Mission for the Referendum in Western Sahara (MINURSO) for monitoring and defending the human rights of the Saharawi people should be extended and Morocco must not be allowed to prevent international observers from entering the Territory.

7. The Saharawi people had been awaiting a referendum on self-determination since 1992. Morocco, however, continued to oppose the Peace Plan for Self-Determination of the People of Western Sahara (Baker Plan), which had been endorsed by the Security Council. The United Nations was at a crossroads. It could either adopt political and economic measures to persuade Morocco to comply with the Baker Plan, or accept its failure and withdraw. The peace and security of the whole region was at stake.

8. *Mr. López Ortiz withdrew.*

9. *At the invitation of the Chairman, Ms. López Belloso (Investigator of the Instituto Hegoa on questions of humanitarian action and international law) took a place at the petitioners' table.*

10. **Ms. López Belloso** (Investigator of the Instituto Hegoa on questions of humanitarian action and international law) said that since the beginning of the conflict in 1975, when the Territory had been abandoned by the former administering Power, Spain, and occupied by Morocco, the latter had committed violations of international law on many counts. Humanitarian law provided for the right of humanitarian organizations to assist victims of armed

conflict as well as the right of victims to request and receive assistance; however, such organizations did not have access to Saharawi political prisoners, who were detained in overcrowded conditions without medical assistance. Illegal detention of human rights activists was systematic, as were torture and rape. The humanitarian situation in the camps was also deteriorating. As reported by the Saharawi Red Crescent, there was a serious lack of basic essentials owing to delays in distribution of food aid, the depletion of food reserves and the loss of cattle through drought. According to a recent study, acute malnutrition among children under five was 18 per cent, with chronic malnutrition at 31.4 per cent. Meanwhile, the anaemia rate among women was 61 per cent and 66 per cent in the case of pregnant women.

11. The progressive reduction in aid delivered by major donors, including United Nations agencies, had further worsened the situation of hundreds of thousands of refugees. Hunger was also being used as a weapon in the conflict, in direct violation of international humanitarian law. MINURSO, for its part, should be protecting the rights of the population in their occupied Territory as well as the rights of refugees. Not only had it failed thus far to fulfil its mandate, but it had been implicated in deplorable acts such as the destruction of Saharawi cave paintings and the delivery to the Moroccan authorities of a Saharawi activist who had sought United Nations protection.

12. Violations of the Saharawi population's civil and political rights included persecution and detention for political reasons and the suppression of demonstrations, while violations of their economic, social and cultural rights ranged from labour and social discrimination to the repression of cultural expression. Both in Western Sahara and in the refugee camps in Tindouf, the Saharawi people's right to peace, development and humanitarian assistance were also systematically denied. Women in particular were subject to torture and sexual aggression and suffered most from the deteriorating humanitarian situation in the camps. The people's right to self-determination was also violated, while the occupant, Morocco, exploited their natural resources. It was urgent to devise a fair solution to an unfinished process of decolonization in which so many provisions of international law were being violated.

13. *Ms. López Belloso withdrew.*

14. At the invitation of the Chairman, Ms. Chacon Ormazabal (Asociación de Vitoria-Gasteiz) took a place at the petitioners' table.

15. **Ms. Chacon Ormazabal** (Asociación de Vitoria-Gasteiz) said that she had witnessed with her own eyes the systematic violation of the fundamental rights of the Saharawi people by Morocco, in violation of its own constitution. Independent trade unions were banned and the activities of human rights defenders were restricted. The latter were subject to arbitrary arrest, detention without due process, death threats and administrative harassment. The United Nations Committee against Torture had repeatedly expressed its concern at their treatment. Reprisals were also made against the relatives of the defenders.

16. Many countries had direct responsibility for the situation, as well as strategic interests in Western Sahara. Meanwhile, the Saharawi people's natural resources were being plundered, inter alia, by transnational companies, and their environment degraded. A wall had been built in Western Sahara to conceal human rights violations, 60 times longer than the Berlin wall which had received so much more international attention.

17. *Ms. Chacon Ormazabal withdrew.*

18. At the invitation of the Chairman, Mr. Ruiz de Azua Solozabal (President, Euskal Fondoa) took a place at the petitioners' table.

19. **Mr. Ruiz de Azua Solozabal** (President, Euskal Fondoa), speaking for a Basque organization engaged in development cooperation and the promotion of human rights, observed that Western Sahara, the last colony in Africa, had a special legal status in that it was both a Non-Self-Governing Territory and a Territory under military occupation, and as the latter under the protection of international humanitarian law and the Fourth Geneva Convention. Since, under the Charter, the Territory had a legal status separate from that of the occupying Power, and thus could be in no way considered an integral part of Morocco, no State should conclude an agreement with Morocco that implied recognition of its sovereignty over the Territory. Similarly, since the people of Western Sahara had permanent sovereignty over the Territory's natural resources, no State should conclude an agreement with Morocco that involved exploration or exploitation of the Territory's natural resources.

20. Arbitrary detentions, torture and lack of guarantees, vis-à-vis the police and the courts persisted in the areas occupied by Morocco, as did the persecution of human rights defenders. Given the responsibility of the United Nations and its States Members for decolonization, the maintenance by force for a colonial situation could be grounds for application of measures under Chapter VII of the Charter by the Security Council.

21. It would be easy to devise a democratic solution — organizing a referendum of self-determination — but that would mean compelling Morocco to accept the international rule of law. The hopes aroused by the accession of King Mohammed VI had faded: Morocco continued to be a realm where an absolute monarchy held executive power and could arbitrarily alter the outcome of elections. That was the regime that now proposed an undemocratic autonomy plan that in essence denied the Saharan people their right to self-determination. Nevertheless, Morocco was still treated with surprising tolerance by the international community.

22. He felt obliged to denounce Spain's attitude: as the former administering Power of Western Sahara, with some responsibility for the continuing tragedy, it should work honestly for a definitive solution to the conflict. As a citizen of Europe, he also had to denounce the European Union for having signed a fishing agreement with Morocco that illegally extended to the territorial waters of Western Sahara.

23. The Saharan people were a small nation forged in the desert, seeking its freedom against all odds with dignity and determination, in order to build its future. It would be fitting if Africa awoke once and for all from the colonial night.

24. *Mr. Ruiz de Azua Solozabal withdrew.*

25. *At the invitation of the Chairman, Mr. Poblete (Defense Forum Foundation) took a place at the petitioners' table.*

26. **Mr. Poblete** (Defense Forum Foundation) said that he supported the Secretary-General's call for transparent and creative dialogue to ensure that the views of the peoples of the remaining Territories were heard. In the case of Western Sahara, such dialogue must be focused on implementing a concrete and comprehensive plan to finally carry out a free and fair referendum. During his first visit to the Territory in 1994, he had been struck by the optimism and strength of character of the Saharawi people who asked only that they might exercise their universal freedoms. No free, democratic nation could fail to support such aspirations. While MINURSO had managed to maintain the peace, the referendum process remained illusory. Although the Baker Plan had received the endorsement of the Security Council and Saharawi leaders, the King of Morocco had reportedly remarked that Moroccans would never give up one inch of their beloved Sahara. Mr. James Baker's resignation, meanwhile, had been viewed as a triumph of Moroccan diplomacy. Such manipulation of the United Nations process had a destabilizing effect in the Maghreb, while complacency on the issue exacerbated the human rights situation. There was a need for an urgent resolution of the conflict, which would not only benefit the Saharawi people, but help resolve security challenges, combat terrorism and expand economic prosperity for the entire region. All parties should be prepared to negotiate in good faith. Morocco, for its part, could and should be a regional leader, provided it stopped delaying the referendum process. The United Nations could not be a permanent fixture in Western Sahara, but it could be a short-term facilitator. It had already invested more than $1 billion on the issue, which must not be allowed to go to waste. The Baker Plan provided a road map, and the Territory should be flooded with international observers. Key interested parties, such as Spain, should also do their part. A free and fair referendum would only take a day to complete.

27. *Mr. Poblete withdrew.*

28. *At the invitation of the Chairman, Mr. de la Fuente Serrano (Human Rights Observatory, Colegio de Abogados de Badajoz) took a place at the petitioners' table.*

29. **Mr. de la Fuente Serrano** (Human Rights Observatory, Colegio de Abogados de Badajoz), speaking as representative of a group of Spanish lawyers who for six years had been conducting observer missions to document the human rights situation in Western Sahara, said that he had come to denounce the genocide of the unarmed Saharawi people perpetrated by Morocco, which had illegally occupied the Territory with the connivance of the international community.

30. The Observatory had for years taken testimony from dozens of human rights activists and defenders, victims of human rights violations and families of

disappeared persons and detainees; it had been able to enter the "black prison" of Laayoune, to speak with some Moroccan authorities and to document the extreme violation of the human rights of Saharawi citizens.

31. He and his colleagues had seen first-hand common graves in which hundreds of Saharawi, murdered after being tortured, lay forgotten, their fate never investigated. They had discovered the existence of secret detention centres where massive torture was practised; and had seen that the Saharawi people were living in conditions of which the outside world was largely unaware.

32. Morocco's premeditated, orderly and well-armed and financed system of repression and human rights violations involved mass arrests of civilians, storming the homes of activists and students who campaigned for the promised referendum and the observance of the most basic rights. Individuals had been identified who had been tortured and killed in secret detention centres in Laayoune, yet the charges of human rights activists and citizens had never been investigated, and no torturer had ever been brought to justice. Victims were at the mercy of the security forces and the self-styled "death squads", in a Territory where even MINURSO refused to open its doors to their complaints. It was urgent for the United Nations to assume responsibility for the defence of human rights in the Territory.

33. The Observatory wished to make two requests of the Fourth Committee: that it act to stop the repression by setting up a permanent human rights office in Laayoune under the United Nations High Commissioner for Human Rights; and that it compel Morocco to allow human rights organizations that were defending the interests of the unarmed population to function. If the Committee felt unable to do so, at least it should take some steps to stop the terror endemic in a Non-Self-Governing Territory for which it was responsible.

34. *Mr. de la Fuente Serrano withdrew.*

35. *At the invitation of the Chairman, Ms. Maoulainine (Association de protection des droits de l'homme (Maroc)) took a place at the petitioners' table.*

36. **Ms. Maoulainine** (Association de protection des droits de l'homme (Maroc)) said that she wanted to personally testify to the painful ordeal she and thousands of other Saharawi children had undergone. The same thing was still happening to children in the Tindouf camps in Algeria. In 1976, her family had been forcibly removed from southern Morocco to one of the Tindouf camps. There, at the age of 6, she and her mother had watched in horror as her father was brutally tortured by a man who still now was in the leadership of the Frente POLISARIO; her father had then been imprisoned because of his opposition to this organization. She herself was, with other young children, forcibly torn from her loving family and deported by the Frente POLISARIO at the behest of Algeria to Cuba for schooling, where she was made to live for 16 years, in violation of her basic right as a child to live with her siblings and parents.

37. **The Chairman**, concurring with a point of order raised by **Ms. Toledano** (Cuba), instructed the petitioner to restrict her comments to the item under discussion, without extraneous references to a Member State.

38. **Ms. Maoulainine** (Association de protection des droits de l'homme (Maroc)) said that her statement concerned the question of Western Sahara and that she could not avoid referring to Cuba because she was speaking of events that had occurred there. Her years of schooling there had been less traumatic because of the company of the other Saharawi children and the Cuban families and teachers who showed them affection. She was one of the lucky children who was able to go beyond the trauma and obtain an advanced degree, although many others remained psychologically damaged by the separation; still others had finished their studies but their diplomas had been confiscated by the Frente POLISARIO to prevent them from staying to work abroad or from leaving the Tindouf camps after their return. Because of that policy, the future of many young, educated Saharawi now living in Spain, Morocco or Mauritania had been compromised.

39. She wished publicly to thank the Cuban people, her teachers and her Cuban friends for the unconditional support and professional training they had given her and the other deported children. Upon her return to Tindouf, she had been devastated to learn that her father had died in prison together with thousands of Saharans who had disappeared in detention, all of them victims of the systematic violation of human rights and torture at the hands of

the Algerian tormentors and the Frente POLISARIO leadership, who even now held power with impunity.

40. As a victim of an odious crime against her and other innocent children in Tindouf, she accused Algeria of being responsible for the deportation of thousands of Saharawi children and their separation from their families. The Algerian Government must stop destroying families. She held Algeria responsible for the instability in the region and the threat of terrorism against all the peoples of the Maghreb.

41. *Ms. Maoulainine withdrew.*

42. *At the invitation of the Chairman, Ms. Weyl (Association des Amis del République Arabe Sahraonie Démocratique) took a place at the petitioners' table.*

43. **Ms. Weyl** (Association des Amis de la République Arabe Sahraouie Démocratique) said that she had visited Western Sahara to observe trials of human rights defenders and had met former prisoners, their families and defence lawyers. Since 2005, Saharawi people demonstrating in a peaceful uprising (*intifada*) had been brutally repressed by Moroccan forces, resulting in numerous trials of Saharawi activists in which their basic civil rights had been ignored. Their crime had simply been to chant Saharawi slogans, wave the Saharawi flag, belong to illegal Saharawi organizations or assert Saharawi identity. The trials tended to be based on forged evidence or confessions obtained under torture, defence lawyers were harassed and trials were expedited. In July, dozens of people in the village of Dakhla had been injured, arrested or abducted. However, despite such repression, the Saharawi people remained determined to exercise their right to self-determination. She hoped that her testimony would help their cause.

44. *Ms. Weyl withdrew.*

45. *At the invitation of the Chairman, Ms. Stame Cervone (President, Christian Democratic Women International) took a place at the petitioners' table.*

46. **Ms. Stame Cervone** (President, Christian Democratic Women International (IFDC)) observed that the question of Western Sahara had arisen out of a conflict fabricated by the Algerian authorities in an attempt to seize the Territory. It was amazing that the question was still on the Committee's agenda, and that there were still some who were calling for a referendum or even for independence for the Territory.

47. As a counterweight to Algeria's sabotaging of any proposal not to its liking, there were Morocco's legitimate rights in the matter and the possibility of a realistic diplomatic solution to the conflict that took account of developments since the 1970s. She paid tribute to the Personal Envoy of the Secretary-General — whose mandate had not been renewed — for his probity and intellectual honesty and the courage to say publicly what everyone knew: that independence was an unrealistic option for Western Sahara and that the only course satisfactory to all parties would be negotiations on the autonomy initiative proposed by Morocco.

48. She also drew the Committee's attention to the plight of the Saharawi children still being deported to Cuba by the Frente POLISARIO, over the protests of many international human rights NGOs.

49. **The Chairman**, supporting a point of order raised by **Ms. Toledano** (Cuba), instructed the petitioner to keep to the point under discussion without making inappropriate references to Cuba.

50. **Ms. Stame Cervone** (President, Christian Democratic Women International) assured the delegation and the Committee that her statement was not in any way intended as an attack against Cuba. Needless to say, it was Algeria that had a huge responsibility for the perpetuation of that human tragedy that victimized innocent Saharawi in the Tindouf camps. The entire problem could easily be resolved by lifting the state of siege imposed on the population and allowing the people to return to their homes in Morocco, where decent living conditions were ensured. It was difficult to see why Saharawi children had to be deported to an island thousands of kilometres away, when some of Algeria's enormous oil and gas revenues could have been used to attend to their educational needs, rather than for military purposes. Algeria had provoked the Western Saharan conflict as a way of weakening Morocco and making its oil-rich nation into a regional power. The victims were the Saharawi people affected and the Moroccan people forced to serve in the war imposed on them. Algeria had no interest in settling the issue.

51. *Ms. Stame Cervone withdrew.*

52. *At the invitation of the Chairman, Mr. Goiriz Ojeda took a place at the petitioners' table.*

53. **Mr. Goiriz Ojeda**, speaking in his personal capacity as a Canary Island lawyer and business leader

and an independent observer of the protracted and frustrating dispute over Western Sahara, said that its successful resolution would bring stability to the entire region, as well as prosperity, development and well-being, not only for the people of West Africa but also for those of southern Europe, where the Canary Islands were situated.

54. Western Sahara was not spared from the worldwide economic and financial crisis, which would directly impinge on programmes to combat clandestine immigration and all the criminal activities engendered by the great gap between rich and poor in Africa. But from his own experience as director of management-model negotiations within the European Union, he could affirm that the Canary Islands' political and economic autonomy could serve as a model for Territories such as Western Sahara. The gloomy global financial picture and terrorist threats such as those which had recently struck neighbouring Mauritania made settlement of the conflict all the more urgent. The Canary Islands had a particular interest in the matter because of their proximity to, and their emotional and trade ties with North Africa.

55. The autonomy proposal for Western Sahara under negotiation could lead to a model for the management of natural resources and raw materials, and allow the inhabitants of the Territory to decide on their future and that of the region.

56. *Mr. Goiriz Ojeda withdrew.*

57. *At the invitation of the Chairman, Mr. Assor (Surrey Three Faiths Forum) took a place at the petitioners' table.*

58. **Mr. Assor** (Surrey Three Faiths Forum) said that he was concerned with the humanitarian rather than the political aspects of the conflict, particularly the plight of the downtrodden inmates in the Tindouf camps. As in previous years he asked the Committee for permission to visit the camps without hindrance and bring out those who wished to return to their own country, Morocco, leaving those who — according to the Frente POLISARIO — wanted to remain in Tindouf. The numbers of detainees kept fluctuating, a further reason to let his group visit and count them and offer the necessary help. A vast amount of the food aid donors intended for the Tindouf camps had been deliberately and illicitly used for other purposes, such as military projects that cost more than the entire global budget of the United Nations High Commissioner for Refugees (UNHCR), by the Frente POLISARIO and their henchmen, with the indulgence of Algeria. The camp inmates hardly benefited from the aid, yet the Frente POLISARIO was calling for more. Its leaders wanted only to maintain their hold on power and to deceive the international community on the matter of the Saharan conflict in general. Donors were entitled to know how the supposed humanitarian aid was being used.

59. *Mr. Assor withdrew.*

60. *At the invitation of the Chairman, Mr. Romero Gonzalez, took a place at the petitioners' table.*

61. **Mr. Romero Gonzalez**, speaking in his personal capacity, said that he had interviewed more than 20 Saharan victims of crimes against humanity in El Aioun, as well as Saharawi residing on Spanish territory. Those interviews, along with the numerous medical reports he had seen describing the results of torture, massacre and other crimes carried out by the Frente POLISARIO against the Saharawi people, reflected the fact that the sole true victims of the conflict were the Saharawi people themselves.

62. Casting blame as thousands of men, women and children suffered and died in the conflict, was unethical. In the light of the magnitude of the human tragedy that was occurring in the Territory, the time had come to resolve that horrendous conflict. Complete independence for the former Spanish Sahara was an illusion; neither the current geo-strategic climate, the complex relations among the countries in the conflict zone, nor the interests of the Saharawi themselves favoured such an outcome. The question of Western Sahara could be settled on the basis of the autonomy plan recently proposed by Morocco, which represented a genuine opportunity for mutual understanding. Implementation of that plan would allow the social integration of all Saharawi; denying it the support it deserved would constitute a grave and regrettable error that could lead to decades of ever more violent conflict. The international community must work on the basis of the plan put forward by Morocco — the most serious opportunity for peace and real progress to date — and perhaps the only one likely to lead to a viable solution to the question of Western Sahara.

63. *Mr. Romero Gonzalez withdrew.*

64. *At the invitation of the Chairman, Mr. Boukhari (Representative of Frente POLISARIO), took a place at the petitioners' table.*

65. **Mr. Boukhari** (Representative of Frente POLISARIO) said that a human tragedy had been unfolding in his country since 1975, marked by violations of human rights that derived from the failure to respect the right of the Saharawi people to self-determination. Indeed, in the summer, a Moroccan newspaper, *Al Jarida Al Oula*, had published a statement to an official investigative body by a member of the Moroccan delegation to the Manhasset negotiations that three or four Moroccan army officers had committed war crimes off the battlefield when many civilians had been thrown from helicopters or buried alive merely because they were Saharawi. More than 600 civilians and 151 Saharawi soldiers had been unaccounted for since 1976.

66. Although Morocco had accepted the Settlement Plan in 1991, it had consistently failed to honour its commitments under that Plan; nor had it honoured those undertaken under the Houston Agreements of 1997 and the Baker Plan of 2003. Eighteen years later, MINURSO remained isolated and confined to its headquarters, impotent to address the human rights violations in his country.

67. The Saharawi people were determined to carry on its legitimate struggle and resistance until it had achieved the full exercise of its right to self-determination. Morocco's prolonged intransigence and oppression of his people did not build confidence nor contribute to the conditions needed for a peaceful solution. On the contrary, it was offering so-called autonomy as the only option in the Western Sahara decolonization process and setting it as a precondition. Frente POLISARIO sought full decolonization by means of a free and fair referendum on self-determination. Under the Charter of the United Nations and relevant resolutions, the Saharawi people were entitled to choose between independence and any other options, including integration with Morocco.

68. Even though no progress had been made during the latest round of negotiations at Manhasset, the Frente POLISARIO would continue to place its trust in international legality and to cooperate with the Secretary-General and his new Personal Envoy. While it stood ready to negotiate with its neighbour in seriousness and good faith, it would not yield on the Saharan people's right to self-determination and independence.

69. *Mr. Boukhari withdrew.*

70. *At the invitation of the Chairman, Mr. Ardesi (Italian Association of Friendship and Solidarity with the Saharawi People), took a place at the petitioners' table.*

71. **Mr. Ardesi** (Italian Association of Friendship and Solidarity with the Saharawi People) said that, while Morocco maintained that its territorial integrity should not be called into question, there was no de jure or de facto basis for its claims on Western Sahara. Moreover, Morocco had consistently ignored the 16 October 1975 advisory opinion of the International Court of Justice that had found no legal ties of such a nature as might affect the application of resolution 1514 (XV) in the decolonization of Western Sahara and, in particular, of the principle of self-determination through the free and genuine expression of the will of the peoples of the Territory. The tripartite agreement concluded in Madrid on 14 November 1975, under which Spain had ceded its colony to Morocco and Mauritania, had not been recognized by any international forum, nor did it show that Morocco intended to exercise sovereignty over the entire Territory. Indeed, Morocco's occupation of only two thirds of the Territory was not recognized by any international or regional forum, while the Saharawi Arab Democratic Republic (SADR), a founding member of the African Union, had established its authority over the remainder. By its agreement under United Nations auspices with the Frente POLISARIO in 1988 on a plan for a referendum on self-determination, Morocco had recognized the decolonization issue and the means to settle it, and had moreover participated in all subsequent stages of preparation for the referendum. Yet it had then rejected the United Nations plan, reneged on its commitments and begun proposing autonomy instead.

72. If, as Morocco claimed, the Saharawi people fully supported the autonomy proposal, he wondered why did it prevent the free and genuine expression of the will of the people of the Territory, why did its occupation forces carry out large-scale repression which was denounced by international and even Moroccan human rights organizations, and why were journalists and fact-finding missions denied unfettered access to the occupied areas?

73. *Mr. Ardesi withdrew.*

74 *At the invitation of the Chairman, Ms. Thulin (Former Member of Parliament of Sweden), took a place at the petitioners' table.*

75. **Ms. Thulin** (Former Member of Parliament of Sweden) said that Spain carried a huge burden of guilt for the unjust way in which it had ended its colonization of Western Sahara, whose people had the right to self-determination under United Nations resolutions. Morocco's claims on Western Sahara territory had been rejected by the International Court of Justice; no States had accepted Moroccan sovereignty over Western Sahara, but some 60 States had recognized the Saharawi Arab Democratic Republic (SADR). Members of the Committee should urge their Governments to follow suit.

76. In addition to continuously violating the human rights of the Saharawi people during its years of illegal occupation, Morocco had built "a wall of shame" across Western Saharan territory laying over 6 million mines in the desert to prevent the free movement of the Saharawi people. It was also stealing their natural resources — prospecting for and exporting their natural resources despite United Nations resolutions against doing so. Morocco was not a party to the decolonization process; rather it was de facto an illegal occupier. Options for decolonization of Western Sahara were limited to free association, integration or independence, not autonomy.

77. The United Nations should call upon Spain to resume its role as administering Power and take responsibility for the decolonization process. The United Nations, meanwhile, must stop the ongoing Moroccan repression and end the illegal occupation. It must make public a list of countries and companies doing business in Western Sahara, take over the development of natural resources in the Territory, prevail upon the European Union to renegotiate its fishing agreement with Morocco to exclude waters off Western Sahara, and impose sanctions on Morocco for exploiting Western Saharan natural resources without the consent of the indigenous people. It must also demand the immediate release of all Saharawi political prisoners, demand the immediate demolition by Morocco of the wall through Western Saharan territory, impose sanctions against Morocco for violating human rights, send a mission to guarantee that Moroccan settlers and authorities did not violate the human rights of the Saharawi people and fully apply Chapter VII of the Charter of the United Nations.

78. *Ms. Thulin withdrew.*

79. *At the invitation of the Chairman, Ms. Warburg (Freedom for All), took a place at the petitioners' table.*

80. **Ms. Warburg** (Freedom for All) said that her organization's supporters harboured grave concerns about the continuing human rights abuses perpetrated in the Tindouf camps run by the Algerian-backed Frente POLISARIO. Morocco's innovative and enlightened proposal for an autonomy plan for the Western Sahara was aimed at achieving a permanent, mutually acceptable solution to the conflict, but the Frente POLISARIO had yet to engage in meaningful direct negotiations. Independence for the Western Sahara was not a realistic option, but a solution must be reached soon to end the sufferings of those detained in Tindouf. Her organization, which supported the autonomy plan, wished to draw attention to the grim conditions in the Tindouf camps, characterized by the forcible separation of families in contravention of the United Nations Convention on the Rights of the Child and of numerous other United Nations conventions relating to the protection of women and children from exploitation and trafficking. Humanitarian aid was being deliberately misappropriated by the Frente POLISARIO, and arbitrary punishment, torture and even slavery were prevalent. She called for an international investigation into forced disappearances from Tindouf, and endorsed the aims of the United Nations High Commissioner for Human Rights to alleviate current ills and abuses and prevent others from occurring, and hold perpetrators to account.

81. *Ms. Warburg withdrew.*

82. *At the invitation of the Chairman, Mr. Hamoudi (Saharawi student), took a place at the petitioners' table.*

83. **Mr. Hamoudi** (Saharawi student) said that he had been born in a refugee camp in southern Algeria, where his family had fled after the Moroccan invasion of Western Sahara in 1975. He and his family had endured privations in the camp, and he had been obliged to leave the camp at the age of 13 to pursue an education, first at an Algerian boarding school, then at an international high school in Italy. He had never given up hope of one day returning to Western Sahara, the homeland he had never seen. While the Moroccan authorities in the occupied Western Sahara violated the human rights of indigenous Saharawis, the Saharawi refugees in Algeria were also suffering as a result of the efforts of the Moroccan regime to convince

international humanitarian organizations to deny them aid.

84. Although the international community had recognized the right of the Saharawi people to self-determination, it had done nothing to implement it. Sovereignty for the Territory could only come about through a United Nations-sponsored referendum that allowed Saharawis to decide either to become an independent country or a part of the Kingdom of Morocco. Failure to conduct such a referendum could lead to a fresh outbreak of war between Morocco and the Frente POLISARIO.

85. *Mr. Hamoudi withdrew.*

86. *At the invitation of the Chairman, Mr. Cid took a place at the petitioners' table.*

87. **Mr. Cid**, speaking in his personal capacity, said that he had served as an international observer in the previous year's parliamentary elections held in Morocco; he was also a politician who had long monitored the situation in Western Sahara. He expressed the hope that the implementation of the relevant General Assembly resolutions by the parties would lead to agreements for the settlement of the conflict. Security Council resolution 1813 (2008), for example, had endorsed the recommendation of the report of the Secretary-General (S/2008/251) that realism and a spirit of compromise by the parties [were] essential to maintain the momentum of the process of negotiations, and had welcomed the serious and credible Moroccan efforts to move the process forward towards resolution. The autonomy proposal formulated by the Moroccan Government was an additional means towards that end. The Rio Group had recently produced a document that also called for negotiations regarding the conflict in Western Sahara to be carried out on the basis of the relevant Security Council resolutions, with a view to achieving a just, lasting and mutually acceptable political solution.

88. *Mr. Cid withdrew.*

89. *At the invitation of the Chairman, Mr. Jensen (former Special Representative of the Secretary-General for Western Sahara) took a place at the petitioners' table.*

90. **Mr. Jensen** (former Special Representative of the Secretary-General for Western Sahara) said that the case of Western Sahara demonstrated that there was no one-size-fits-all in political procedure. The identification process, launched as part of the Settlement Plan, had become a means of developing interaction between Morocco and the Frente POLISARIO. However, it had quickly become apparent that the Settlement Plan could never deliver an outcome that both Morocco and the Frente POLISARIO would voluntarily accept and implement, given the impossibility of reconciling their incompatible positions as to who should decide the future status of the Territory.

91. At the direct, high-level talks he had facilitated in 1996 as Special Representative for Western Sahara, both parties had agreed to consider a compromise that excluded unqualified independence and straightforward integration. His view that the most realistic solution to the conflict lay through a directly negotiated political settlement, was shared by Peter van Walsum, who had succeeded James Baker as the Secretary-General's Personal Envoy. Mr. van Walsum had publicly stated in early 2008 that genuine autonomy, rather than independence, was the feasible solution. Although the Council had welcomed the regional autonomy proposal presented by Morocco as "serious and credible", no real progress had been made in four rounds of talks at Manhasset.

92. Insisting on realism and a spirit of compromise as a way out of the current impasse, the Secretary-General and the Security Council had reiterated their call for a just, lasting and mutually acceptable political solution that would allow the people of Western Sahara to exercise self-determination, which could be realized through options other than independence. The people of Western Sahara deserved a decent and secure future. To that end, both parties would have to make concessions, and Algeria also had a key role in permitting reconciliation and development throughout the Maghreb region.

93. *Mr. Jensen withdrew.*

94. *At the invitation of the Chairman, Mr. Vidalin (Governor of Durazno, Uruguay) took a place at the petitioners' table.*

95. **Mr. Vidalin** (Governor of Durazno, Uruguay) said that he fully supported United Nations efforts to reach a peaceful, negotiated solution to the protracted conflict in Western Sahara, in accordance with Security Council resolutions 1754 (2007), 1783 (2007) and 1813 (2008). The Moroccan autonomy proposal should serve as a point of departure for further freedoms that

could eventually be attained through dialogue. Having observed legislative elections held in Morocco, he could attest to the will of the Moroccan authorities and people to work towards peace, a goal that the parties could attain by according the highest priority to the interests of their people.

96. *Mr. Vidalin withdrew.*

97. *At the invitation of the Chairman, Mr. Chauprade (Sorbonne University) took a place at the petitioners' table.*

98. **Mr. Chauprade** (Sorbonne University) said that a global boom in separatist movements and intensified terrorist activities in the Saharan region had illustrated the geopolitical risks of failing to resolve the conflict over the Moroccan Sahara; such developments would ultimately expose the artificial nature of the conflict. The Secretary-General's Personal Envoy for Western Sahara, Peter van Walsum concluded and informed the Security Council in 2007, after three years of consultations with local populations in the Southern part of the Territory and in the Tindouf refugee camps, that the option of an independent Western Saharan State was neither realistic nor feasible.

99. Establishing an autonomous Sahara within the sovereign State of Morocco was the win-win solution that must be pursued in order to put an end to the suffering of populations caught in the crossfire. As a general rule, existing States should consolidate their sovereignty and make adjustments to accommodate specific needs when necessary, instead of responding to regional problems by allowing regions to splinter into small, artificial States that would ultimately become satellites of a larger power. National sovereignty, as one of the essential pillars of the United Nations, must be safeguarded; reconciling sovereignty and autonomy would strike the ideal balance. In that connection, the proposal put forth by Morocco in 2007 deserved consideration.

100. *Mr. Chauprade withdrew.*

101. *At the invitation of the Chairman, Ms. El Moussaoui (Association sahraouie pour l'unité et la réconciliation) took a place at the petitioners' table.*

102. **Ms. El Moussaoui** (Association sahraouie pour l'unité et la réconciliation) said that while living in the Tindouf camps, she had been denied the most basic human rights and been kept under strict surveillance by the Frente POLISARIO and Algerian secret police. During a Frente POLISARIO congress, a group of Saharawis had held an historic meeting at Gjijimat near Tifariti, at which they had declared their staunch opposition to their organization's extremist positions and practices, and also denounced the Algerian secret police's exploitation of the principle of self-determination in order to achieve Algeria's expansionist aims. Indeed, Algeria's refusal to grant the inhabitants of the Tindouf camps legal protection under its laws — or, for that matter, its denial of Berber and Touareg rights to self-determination in their respective regions — severely undermined its claim that it was committed to that sacred principle.

103. She had exercised her right to self-determination by participating in the Gjijimat meeting, which had constituted a genuine act of popular resistance to separatism, Algerian secret police practices and the flagrant human rights violations committed by the Frente POLISARIO. Indeed, the only realistic solution to the conflict was the option of self-determination, as it respected Saharawi specificities and granted the people a broad degree of autonomy over their own affairs in a democratic context. She urged the Personal Envoy to take immediate action to liberate her brethren who were still being held captive in the Tindouf camps.

104. *Ms. Moussaoui withdrew.*

105. *At the invitation of the Chairperson, Mr. Boussif (Council of the Region of Rio de Oro) took a place at the petitioners' table.*

106. **Mr. Boussif** (Council of the Region of Rio de Oro) said that, as a democratically elected representative and member of the Royal Advisory Council for Saharan Affairs, it was his responsibility to express the legitimate hopes and aspirations of his fellow Saharawis, namely, to live with dignity in a unified homeland. Opting to remain in Morocco was the right choice, as it afforded Saharawis the opportunity to choose their elected officials and benefit from development projects, whereas Saharawi brethren abroad faced discrimination and an uncertain future.

107. The long-standing conflict was a product of the Cold War; in that connection, Algerian expansionist plans must be exposed and must not be allowed to encroach upon Morocco's historic rights. Mr. van Walsum had affirmed before the Security Council that independence for the Sahara was unrealistic but had also noted that many States preferred maintaining the status quo to having to support either Algerian or

Moroccan claims in order to find a solution. Denouncing such inaction, he pointed out that wide autonomy in the Sahara would respect the Saharawi culture and enable the Saharawi people to conduct their affairs within the democratic framework of a unified — yet ethnically and culturally diverse — State. He called on the international community to intervene to stop the tragedy and unify Saharawi families.

108. *Mr. Boussif withdrew.*

109. *At the invitation of the Chairman, Ms. Gonçalves Margerin (Robert F. Kennedy Memorial) took a place at the petitioners' table.*

110. **Ms. Gonçalves Margerin** (Robert F. Kennedy Memorial), speaking on behalf of Ms. Aminatou Haidar, 2008 Robert F. Kennedy Human Rights Award laureate, said that, since May of 2008, the Moroccan Government had committed gross human rights abuses against civilian Saharawis because of their political views on the issue of Western Sahara and their participation in peaceful demonstrations in support of self-determination. Repressive measures had included kidnapping, torture, arbitrary detention, curtailing freedom of expression and political arrests.

111. The Moroccan Government's efforts to misrepresent the positions of Saharawi human rights defenders had resulted in unjust prison sentences of up to 20 years. After releasing several Saharawi political prisoners on two occasions in the previous two years, the Government had since rearrested a number of them because of their participation in peaceful protests, subjecting the prisoners to ill-treatment. In addition, the Moroccan authorities had released policemen directly involved in the torture and killing of two young Saharawi men, Hamdi Lambarki and Suleiman al-Shwihi.

112. Saharawi human rights defenders were still waiting for the international community to increase pressure on the Moroccan Government, especially in the light of the report of the Office of the High Commissioner for Human Rights (OHCHR), which had linked the deteriorating human rights situation in the region to the failure to grant the Saharawi people the right to self-determination. It was shocking that the report had neither been approved by the United Nations nor made public. Morocco was thus allowed to flout international legitimacy and continue to violate the human rights of Saharawi civilians.

113. After several decades on the agenda of the Committee, the decolonization of Western Sahara had not been achieved by means of direct negotiations facilitated by the United Nations. She held the United Nations responsible for that impasse and deplored its silence in the face of crimes against humanity. The Organization must intervene to end the Saharawi people's prolonged misery, expand the mandate of MINURSO to cover human rights and publish and implement the recommendations of the 2006 OHCHR report.

114. *Ms. Gonçalves Margerin withdrew.*

115. *At the invitation of the Chairman, Ms. Hammaidi (Association de défense des femmes sahraouies) took a place at the petitioners' table.*

116. **Ms. Hammaidi** (Association de défense des femmes sahraouies) said that life in the Tindouf camps had become a nightmare under the control of the Frente POLISARIO and the Algerian authorities, both of whom used their Saharawi subjects as political pawns in the Western Sahara issue. When the family exchange visits programme had been established, she had felt the stirrings of hope, only to discover that the Frente POLISARIO authorities would be controlling the registration process and therefore deciding which families would be authorized to participate. While she had ultimately benefited from the programme, she had been faced with a difficult choice of either staying in Morocco and sacrificing her sons or returning to the torment of the camps. Having chosen the former, she had sought and ultimately received assistance from UNHCR and national and international legal associations to be reunited with her children.

117. In order to prevent such tragedies from recurring, UNHCR should put pressure on POLISARIO leaders and the Algerian authorities, to reverse their policy of taking children as hostages to guarantee their parents' return. She also called upon the Committee to assist Saharawi refugees to be reunited with their families, and ultimately to put an end to the suffering caused by the fabricated conflict.

118. *Ms. Hammaidi withdrew.*

119. *At the invitation of the Chairman, Mr. Vanossi (Former Minister of Justice of Argentina) took a place at the petitioners' table.*

120. **Mr. Vanossi** (Former Minister of Justice of Argentina), speaking in his personal capacity, said that

constitutional law was an important factor in the thorny and much discussed question of Western Sahara, as was international law. Given the complex nature of the problem, finding a solution would require taking into account all interests at stake, while also ensuring genuine institutional autonomy for Western Sahara. To that end, Morocco's proposal to grant regional autonomy to Western Sahara needed to be studied carefully to assess its prospects for facilitating reconciliation. That plan included autonomy safeguards for Western Sahara, and it respected the principle of subsidiarity. An autonomous Western Sahara would have to be ruled by a freely elected local government; the territory would also require engines for economic development and a tax-collecting body, in order to generate financial resources. Both parties would have to define the scope of powers granted to the autonomous authorities, which would include legislative, executive and judicial branches. Morocco was open to the possibility of holding a referendum in the region, following a proper census, which would settle the question of self-determination. Furthermore, the terms of autonomy set forth in the proposal could be negotiated. In sum, reaching a solution that was realistic, inclusive, and viable was of the utmost importance, and he was certain that Morocco would make every effort towards that end.

The meeting rose at 6.01 p.m.